

## AMENDING ACTS RELATING TO GARAGEKEEPERS AND LIVERYMEN'S LIENS AND THE ENFORCEMENT THERE- OF IN THE DISTRICT OF COLUMBIA

SEPTEMBER 12 (legislative day, SEPTEMBER 4), 1951.—Ordered to be printed

Mr. CLEMENTS, from the Committee on the District of Columbia,  
submitted the following

### R E P O R T

[To accompany S. 1342]

The Committee on the District of Columbia, to whom was referred the bill (S. 1342) to amend acts relating to garagekeepers and liverymen's liens and the enforcement thereof in the District of Columbia, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 7, after the word "vehicles", insert the words "including trailers".

Page 2, line 8, after the word "their", insert the words "agreed or reasonable".

Page 2, line 17, strike out the words "of record" and insert in lieu thereof the words "shown by the certificate of title or registry of the vehicle".

Page 3, line 24, after the word "year.", add the following sentence:

Any person selling such property in order to satisfy a fraudulent, excessive, or unreasonable lien shall be guilty of a conversion of such property and liable to the owner in damages therefor.

The purpose of this legislation is contained in the letter from Mr. Jo V. Morgan, president of the Bar Association of the District of Columbia under date of March 28, 1951, to the Honorable Matthew M. Neely, chairman of the Senate Committee on the District of Columbia. Excerpts from said letter are made a part of this report.

The purposes sought to be accomplished are outlined below:

1. Under the present law, a garage keeper's lien takes priority over a conditional sales contract (*Barrett v. Commercial Credit Company*, 54 Appl. D. C. 249), but there are conflicting holdings in the lower courts as to relative priorities of

garage keepers' liens and chattel deeds of trust. The latter question has never been decided by the court of appeals. It seemed desirable to eliminate this source of doubt and to treat chattel deeds of trust in the same manner as conditional bills of sale.

2. With respect to enforcement of garagekeepers' liens, the present law requires the filing of a suit in event the value of the property bound by the lien exceeds \$50. Under present conditions, almost any motor vehicle has a value exceeding that sum. Suit for enforcement of such a lien entails the delay and expense incident to all lawsuits, and in addition requires the appointment of a receiver or trustee to make sale, and this person must be compensated out of the proceeds of sale and the premium on his bond paid from that source. Such a proceeding, of course, requires the employing of an attorney. A great number of the States provide for enforcement of these liens by public auction after notice or provide for sale in summary fashion by the sheriff or a similar officer. It is believed that the notice provisions of the proposed bill substantially eliminate the danger of abuses, particularly since the Director of Vehicles and Traffic would, of course, require evidence of compliance with law before issuing a title to the purchaser at such a sale. It was also considered that conditional bills of sale and chattel deeds of trust are enforced every day without court proceedings and, in the case of the former, frequently without any notice or public sale. In fact, deeds of trust on real estate are likewise enforced without any court proceedings; and these practices have resulted in little or no abuse.

3. Under the present law it is doubtful whether any person other than someone occupying the technical status of garagekeeper is entitled to any lien, although he may have done all of the things which would have entitled a garagekeeper to a lien. It was believed more just to make the lien dependent upon the things done, rather than the status of the person doing them.

4. Under the present law a garagekeeper might not be justified in refusing to surrender a motor vehicle, even though entitled to a lien thereon, unless he had first given written notice to the owner. It is believed that the right to detain the vehicle should not be made dependent upon the giving of prior written notice. However, the giving of notice would, of course, be a condition precedent to enforcing the lien.

The bill also provides that—

any person selling such property in order to satisfy a fraudulent, excessive, or unreasonable lien shall be guilty of a conversion of such property and liable to the owner in damages therefor.

This provision is to protect the owners of such property against an unscrupulous garagekeeper.

This bill has the approval of the Board of Commissioners and the Bar Association of the District of Columbia.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law in the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### [PUBLIC LAW 181—66TH CONGRESS]

[41 Stat. 153]

AN ACT To amend the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901," and the Acts amendatory thereof and supplementary thereto

#### LIEN OF LIVERYMEN

Sec. 1262. [It shall be lawful for all persons keeping or boarding any animals at livery within the District, under any agreement with the owner thereof, to detain such animals until all charges under such agreement for the care, keep, or board of such animals shall have been paid: *Provided, however*, that notice in writing shall first be given to such owner in person or at his last known place of residence of the amount of such charges and the intention to detain such animal or animals until

such charges shall be paid. Garage keepers shall also have a lien for their charges for storage, repairs, and supplies of or concerning motor vehicles, when such charges are incurred by an owner or conditional vendee of such motor vehicles, and may detain such motor vehicles at any time they may have lawful possession thereof, after giving a notice similar to that provided for liverymen. If said charges are not paid in thirty days said lien may be enforced in the manner provided in section 1264.】 That it shall be lawful for all persons keeping or boarding any animals at livery within the District, under any agreement with the owner thereof, to detain such animals until all charges under such agreement for the care, keep, or board of such animals shall have been paid; Provided, however, That before enforcing the lien hereby given notice in writing shall be given to such owner in person or by registered mail at his last-known place of residence of the amount of such charges and the intention to detain such animal or animals until such charges shall be paid.

#### LIEN FOR STORAGE, REPAIRS, AND SUPPLIES FOR MOTOR VEHICLES

All persons storing, repairing, or furnishing supplies of or concerning motor vehicles including trailers shall have a lien for their agreed or reasonable charges for such storage, repairs, and supplies when such charges are incurred by an owner or conditional vendee or chattel mortgagor (including a grantor of deed of trust in lieu of mortgage) of such motor vehicle, and may detain such motor vehicle at any time they may have lawful possession thereof. Such lien shall have priority over all other liens or rights in or to the vehicle except as hereinafter limited with respect to claims for storage. Before enforcing such lien, notice in writing shall be given to the title holder, all lien holders shown by the certificate of title or registry of the vehicle and any other persons known to claimant who have any interest in or lien upon the vehicle. Such notice shall be delivered personally or sent by registered mail to the last-known address of the person to whom given, shall state that a lien is claimed for the charges therein set forth or thereto attached, and shall demand payment thereof. There shall be incorporated in or attached to said notice a statement of particulars of the charge or charges for which a lien is claimed, to which may be added a claim for storage of the vehicle from the date of said notice to the date of payment or sale, which amount shall be set forth at a daily or weekly rate which shall not be in excess of charges prevailing at the time for similar storage, and shall not be in excess of \$3 per day or \$21 per week, which additional charge shall in no event cover a period in excess of ninety days.

[31 Stat. 854]

#### AN ACT To establish a code of law for the District of Columbia

##### ENFORCEMENT OF LIEN BY SALE

Sec. 1263. 【If the amount due and for which a lien is given by any of the last three sections is not paid after the end of a month after the same is due, and the property bound by said lien does not exceed the sum of fifty dollars, then the party entitled to such lien, after demand of payment upon the debtor, if he be within the District, may proceed to sell the property so subject to lien at public auction, after giving notice once a week for three successive weeks in some daily newspaper published in the District, and the proceeds of such sale shall be applied, first, to the expenses of such sales and the discharge of such lien, and the remainder, if any, shall be paid over to the owner of the property.】 If the amount due and for which a lien is given by section 1 or 2 hereof is not paid by the end of thirty days after the giving of notice, then the party entitled to such lien may proceed to sell the property so subject to lien at public auction, after giving notice once a week for three successive weeks in some daily newspaper published in the District. Said advertisement shall set forth the date, time, and place of sale, which shall not be less than fifteen days from date of the first publication of such notice, that the purpose of the sale is to satisfy a lien, the amount for which said lien is claimed, including storage to date of sale if allowable, the names of all interested parties, and a description of the chattel, including, in the case of vehicles, the make, type, year and model number, serial number and engine number, if any, and State or District license number and year. Any person selling such property in order to satisfy a fraudulent, excessive or unreasonable lien shall be guilty of a conversion of such property and liable to the owner in damages therefor.

【Sec. 1264. ENFORCEMENT BY BILL IN EQUITY.—If the value of the property so subject to lien shall exceed the sum of fifty dollars, the proceeding to enforce such lien shall be by bill or petition in equity, and the decree, which shall be rendered according to the due course of proceedings in equity, besides subjecting

the thing upon which the lien was attached to sale for the satisfaction of the plaintiff's demand, shall adjudge that the plaintiff recover his demand against the defendant from whom such claim is due, and may have execution therefor as at law.]

#### APPLICATION OF PROCEEDS OF SALE

*The proceeds of such sale shall be applied, first, to the expenses of such sales and the discharge of such lien; second, to payment of other liens, if any, in the order of their priority; and, third, to the owner of the property.*

#### LIMITATION ON LIEN FOR STORAGE

*To the extent that any lien provided for in this chapter is based on a claim for storage of a motor vehicle in excess of \$150, such lien shall be, as to such excess, inferior to the lien of a conditional vendor or chattel mortgagee (as defined in section 2) claiming under an instrument recorded on a date earlier than the period to which such charges are attributable.*

#### REPEALER AND SAVINGS CLAUSE

*Section 1262 of the Act of March 3, 1901 (31 Stat. 1388), as amended, is hereby repealed and sections 1263 and 1264 of said Act are hereby made inapplicable to liens provided for in sections 1 and 2 hereof: Provided, however, That any liens heretofore acquired under the provisions of said section 1262, as amended, shall be unaffected by the repeal of said section and may be enforced either in the manner provided in said sections 1263 and 1264 or in the manner provided herein.*

